



BILLING CODE: 3510-DS-P

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A-570-896]

Magnesium Metal from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2011-2012

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce ("Department") is conducting the administrative review of the antidumping duty order on magnesium metal from the People's Republic of China ("PRC"). The period of review ("POR") is April 1, 2011, through March 31, 2012. This review covers one PRC company, Tianjin Magnesium International, Co., Ltd. ("TMI"). The Department preliminarily finds that TMI did not have reviewable transactions during the POR.

DATES: Effective Date: [Insert date published in the *Federal Register*]

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Eugene Degnan, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone: (202) 482-4243 or (202) 482-0414, respectively.

Scope of the Order

The product covered by this antidumping duty order is magnesium metal from the PRC, which includes primary and secondary alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. The merchandise subject to this order is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States ("HTSUS"). Although the HTSUS number is provided for convenience and customs purposes,

the written product description, available in *Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China*, 70 FR 19928 (April 15, 2005), remains dispositive.

Background

On April 2, 2012, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on magnesium metal from the PRC for the period April 1, 2011 through March 31, 2012.¹ On April 30, 2012, U.S. Magnesium LLC ("U.S. Magnesium"), a domestic producer and Petitioner in the underlying investigation of this case, made a timely request that the Department conduct an administrative review of TMI.² On May 29, 2012, in accordance with section 751(a) of the Tariff Act of 1930, as amended ("the Act"), the Department published in the *Federal Register* a notice of initiation of this antidumping duty administrative review.³ On June 1, 2012, TMI submitted a letter to the Department certifying that it did not export magnesium metal for consumption in the United States during the POR.⁴

On July 17, 2012, the Department placed on the record information obtained in response to the Department's query to U.S. Customs and Border Protection ("CBP") concerning imports into the United States of subject merchandise during the POR.⁵ This information indicates that there were no entries of subject merchandise during the POR that had been exported by TMI. In addition, on July 20, 2012, we notified CBP that we were in receipt of a no-shipment

¹ See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 77 FR 19621 (April 2, 2012).

² See letter from U.S. Magnesium, "Magnesium Metal from the People's Republic of China: Request for Administrative Review," dated April 30, 2012.

³ See *Initiation of Antidumping and Countervailing Duty Administrative Review*, 77 FR 31568 (May 29, 2012).

⁴ See letter from TMI, "Magnesium Metal from the People's Republic of China; A-570-896; Certification of No Sales by Tianjin Magnesium International, Co., Ltd.," dated June 1, 2012, at 1.

⁵ See Memorandum to the File, "Magnesium Metal from the People's Republic of China: Transmittal of U.S. Customs and Border Protection Information to the File," dated July 17, 2012 ("CBP Query").

certification from TMI and requested CBP to report any contrary information within 10 days.⁶ CBP did not report any contrary information.

As explained in the memorandum from the Assistant Secretary for Import Administration, the Department has exercised its discretion to toll deadlines for the duration of the closure of the Federal Government from October 29, through October 30, 2012. Thus, all deadlines in this segment of the proceeding have been extended by two days. The revised deadline for the preliminary results of review is Wednesday, January 2, 2013, and the revised deadline for the final results of review is Thursday, May 2, 2013.⁷

Preliminary Determination of No Shipments

As noted in the “Background” section above, TMI submitted a timely-filed certification indicating that it had no shipments of subject merchandise to the United States during the POR. In addition, CBP did not provide any evidence that contradicts TMI’s claim of no shipments.⁸ Further, on July 17, 2012, the Department released to interested parties the results of a CBP query that it intended to use for corroboration of TMI’s no shipment claims. The Department received no comments from interested parties concerning the results of the CBP query.

Based on TMI’s certification and our analysis of CBP information, we preliminarily determine that TMI did not have any reviewable transactions during the POR. In addition, the Department finds that consistent with its recently announced refinement to its assessment practice in NME cases, it is appropriate not to rescind the review in part in this circumstance but, rather, to complete the review with respect to TMI and issue appropriate instructions to CBP based on the final results of the review. *See Non-Market Economy Antidumping Proceedings:*

⁶ See Customs Message # 2202305, “No Shipments Inquiry,” dated July 20, 2012.

⁷ See Memorandum to the File, “Magnesium Metal From the People’s Republic of China: Tolling of Deadlines,” dated November 1, 2012.

⁸ See CBP Query.

Assessment of Antidumping Duties, 76 FR 65694 (October 24, 2011) and the “Assessment Rates” section, below.

Public Comment

Interested parties are invited to comment on the preliminary results and may submit case briefs and/or written comments within 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days after the due date for case briefs, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the argument not to exceed five pages, and a table of statutes, regulations, and cases cited, in accordance with 19 CFR 351.309(c)(2).

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed electronically using Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (“IA ACCESS”). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit, room 7046 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by the Department’s electronic records system, IA ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.⁹ Requests should contain: (1) the party’s name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department intends to issue the final results of this administrative review, including

⁹ See 19 CFR 351.310(c).

the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. Additionally, pursuant to a recently announced refinement to its assessment practice in NME cases, if the Department continues to determine that an exporter under review had no shipments of the subject merchandise, any suspended entries that entered under that exporter's case number (*i.e.*, at that exporter's rate) will be liquidated at the PRC-wide rate. For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties*, 76 FR 65694 (October 24, 2011).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for TMI, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to TMI in the most recently completed review of the company; (2) for previously investigated or reviewed PRC and non-PRC exporters who are not under review in this segment of the proceeding but who have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 141.49 percent; and (4) for all non-PRC

exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter(s) that supplied that non-PRC exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i) of the Act and 19 CFR 351.213.

Paul Piquado
Assistant Secretary
for Import Administration

December 14, 2012_
Date

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